IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9250 of 2004

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

JOSHI DIVYANKA KIRANKUMAR -THRO- HER MOTHER

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 9250 of 2004

MR KB PUJARA for Petitioner No. 1-4

Mr.H.D.Dave, AGP for Respondents

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 02/08/2004

ORAL JUDGEMENT

Rule. Mr.H.D.Dave, Ld.AGP waives service of rule on behalf of respondents.

2. The present petition is preferred by the petitioner for appropriate direction to quash and set aside the action of the respondents in giving discriminatory treatment to CBSC students who have passed 12th Std Science stream for admission in PTC for the academic year 2004-05 (English medium). The petitioner has also prayed for giving direction to the respondent to prepare common merit list of candidates of Science stream of English medium of Gujarat HSC Board as well as CBSC Board for admission to PTC for academic year 2004-05 and to grant admissions on that basis.

3. Heard Mr.Pujara for the petitioner and Mr.Dave, Ld.AGP for respondents. As the admission process is to be finalised from tomorrow onwards for the branch in question, the matter is considered upon the contentions raised on behalf of the petitioner as well as respondents.

4. As such, this court in its order, dated 28.6.04 in SCA No.6632/04 has taken the view that the students who have passed the CBSC 12th standard examination from the schools situated in Gujarat are required to be treated at par in the absence of any specific quota fixed for such purpose. Even in the said matter the State Govt had also conceded the said position for admission to PTC. However, Mr.Dave, Ld.AGP submitted that the respondents have fixed quota for CBSC students on the basis of number of applicants of HSC Board and number of applicants of CBSC board and he submitted that the percentage fixed is 7% for English medium students in Science stream. Mr.Dave further submitted that however while arriving at total number of seats the number of applications of HSC Board are considered including those who have passed from Gujarati medium. He submitted that even as per respondents as it is, if seats reserved for HSC Board remain vacant those seats can be filled up by offering admission to those students who have passed 12th standard from Gujarati medium. He therefore submitted that so far as the quota is concerned even last year the same was prescribed on the basis of number of applicants of HSC and CBSC.

5 It primafacie appears that the students who have passed HSC in Gujarati medium and English medium and CBSC English medium can not be treated on the same footing for the purpose of giving admission to PTC in English medium.Therefore, while computing the number of seats available on the basis of quota which has been prescribed by the authority, the number of applications is to be

counted from those passed HSC or CBSC, as the case may be, in English medium. It also appears that if out of seats reserved for HSC English medium students as per quota, if any seat remains vacant, the same can not be allowed to be filled up by the students who have passed 12th standard from Gujarati medium so long as English Medium CBSC student is available when the PTC is for imparting training to the teachers at primary level for the purpose of imparting education in English medium, normally, the attempt on the part of the authority would be to give admission to the students who have passed 12th standard in English medium. If such seats are allowed to be filled up by the students who have passed 12th standard in Gujarati medium and if the rule is read accordingly it may result into creating an absurd situation and not only that but the quality of education at PTC in English medium may also suffer and consequently the students who are to be taught after completion of PTC by such candidates would also suffer.

6. In view of the above, Mr.Dave, Ld.AGP, at this stage, under the instructions, states that the computation of quota shall be worked out on the basis of number of applicants of HSC or CBSC, as the case may be in English medium for getting admission to PTC in English medium and he further states that if any seat remains vacant after giving admission to the candidates who have passed HSC in English medium, the students of CBSC English medium who are left out shall be considered for admission in unfilled seats.

7. In view of the aforesaid declaration made by the Ld.AGP, no further order is required to be passed and the respondent authorities are directed to act as per the declaration/statement made by the Ld.AGP.

8. In view of the above, petition is partly allowed. Rule is partly made absolute. DS permitted.

2.8.04 (JAYANT PATEL,J)